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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

MM Docket No. 95-154

CONTEMPORARY MEDIA, INC.

Licensee of Stations WBOW(AM), WBFX(AM),
and WZZQ(FM), Terre Haute, Indiana

Order to Show Cause Why the Licenses for
Stations WBOW(AM), WBFX(AM), and
WZZQ(FM), Terre Haute Indiana, Should Not
be Revoked

CONTEMPORARY BROADCASTING, INC.

Licensee of Station KFMZ(FM), Columbia,
Missouri, and Permittee of Station KAAM-FM,
Huntsville, Missouri (unbuilt)

Order to Show Cause Why the Authorizations
for Stations KFMZ(FM), Columbia, Missouri,
and KAAM-FM, Huntsville, Missouri, Should
Not be Revoked

LAKE BROADCASTING, INC.

Licensee of Station KBMX(FM), Eldon,
Missouri, and Permittee of Station KFXE(FM),
Cuba, Missouri

Order to Show Cause Why the Authorizations
for Stations KBMX(FM), Eldon, Missouri, and
KFXE(FM), Cuba, Missouri, Should Not be
Revoked

LAKE BROADCASTING, INC.

File No. BPH-921112MH

For a Construction Permit for a New FM
Station on Channel 244A at Bourbon, Missouri

To: The Commission

MASS MEDIA BUREAU'S RESPONSE TO REQUEST FOR ORAL ARGUMENT

1. The Mass Media Bureau hereby responds to the Request for Oral Argument filed on December 2, 1997, by Contemporary Media, Inc.; Contemporary Broadcasters, Inc.; and Lake Broadcasting, Inc. (the "Licensees"). The Licensees request that the Commission hold an oral

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argument in connection with their Exceptions to the Initial Decision of Administrative Law Judge Arthur I. Steinberg, FCC 97D-09, released August 21, 1997, in this proceeding.

2. Although captioned a Request for Oral Argument, the Licensees' pleading in fact appears to be a thinly disguised attempt to interpose a response to the Bureau's Reply to Exceptions. The Rules do not provide for such a response. See Section 1.277(c) of the Commission's Rules. A party cannot be allowed to circumvent the Rules under the guise of requesting oral argument. Accordingly, the improper argumentation contained in the Licensees' Request for Oral Argument should be disregarded.

3. Pursuant to Section 1.277(c) of the Commission's Rules, an oral argument is warranted at the discretion of the Commission "only in cases where such oral presentations will assist in the resolution of the issues."¹ In their eagerness to interpose an unauthorized response to the Bureau's Reply to Exceptions, the Licensees largely ignore this criterion.

4. The Licensees' principal contention at paras. 3 to 5 of their Response consists of invective against the Bureau because the Bureau pointed out the unconscionable nature of the misconduct of the Licensees' sole stockholder, Michael Rice. The Licensees argue that oral argument is warranted to "set the record straight" concerning Rice's misconduct. However, the facts concerning Rice's misconduct are clearly established in the record. The Licensees have not

¹ At para. 1 of their Request, the Licensees suggest that there is an "extraordinary circumstances" exception to the Rule, citing Proposals to Reform the Commission's Comparative Hearing Process, 6 FCC Rcd 157, 163, ¶¶ 45-46 (1990). However, the referenced discussion does not reflect any such exception. Rather, the discussion indicates that the language of Section 1.277(c) defines the "extraordinary circumstances" that would justify an oral argument, *i.e.*, assistance in the resolution of the issues presented by an appeal. In fact, the Commission opined that the scheduling of oral argument "also delays the ultimate resolution of the case." *Id.* at 163.

articulated how oral argument would assist the Commission in formulating its conclusions as to the seriousness of that misconduct. Essentially, the Licensees' Request constitutes a rehash of its Exceptions and "conclusory snipes" at the record evidence. Cf. In the Matter of Revocation of License of Henry Armstrong III, 94 FCC 2d 268 (Rev. Bd. 1983).

5. The Licensees also contend at para. 6 of their Request that the issue as to the impact of Rice's misconduct on their qualifications to be licensees is "of first impression" and "central to their case." However, even if true, neither of these factors would demonstrate that the Commission's resolution of the issue would be assisted by oral argument.

6. The Licensees next urge at para. 7 of their Request that oral argument is warranted to allow them to put the issue as to whether they misrepresented facts concerning Rice's involvement in station affairs after his arrest "into proper perspective." However, the Licensees had ample opportunity to articulate what they consider to be the "proper perspective" on this issue in their Exceptions.² It is not the purpose of oral argument to enable a party to repair any perceived deficiencies in its written submissions.

7. The Licensees further contend at paras. 2 and 8 of their Request that an oral argument should be held because of the impact of a decision revoking their authorizations. However, the possible impact of an adverse decision bears no apparent relationship to the question of whether the issues are such that oral argument would facilitate their resolution, and the Licensees have not demonstrated any such relationship in this case. Nor have the Licensees'

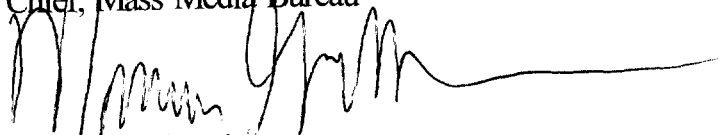
² Indeed, the Licensees, without objection by the Bureau, were granted both a substantial extension of time to file their Exceptions and leave to file Exceptions in excess of the page limit prescribed by Section 1.277(c) of the Commission's Rules. See FCC 97I-30, released September 11, 1997; FCC 97I-32, released October 28, 1997.

posited -- either in their Exceptions or Request -- any specific, viable options to the Commission that would warrant a finding that other "lesser sanctions" are appropriate given the facts of this case. The Bureau maintains that, given the circumstances of this case, lesser sanctions are not appropriate. Thus, oral argument is unnecessary and would merely prolong this proceeding. Repeatedly, requests for oral argument pursuant to Section 1.277(c) have been denied on the basis that such argument would merely prolong the proceeding at issue. See In Re Applications of Minnesota Mobile Telephone Company, 75 FCC 2d 221 (Rev. Bd. 1979); see also In Re Applications of Edward F. and Pamela J. Levine, et al., 8 FCC Rcd 2630 (Rev. Bd. 1993) (denied request for oral argument, citing Proposals to Reform the Commission's Comparative Hearing Process, 6 FCC Rcd 157 (1990) and holding that oral argument would not lend valuable assistance in resolving the issues).

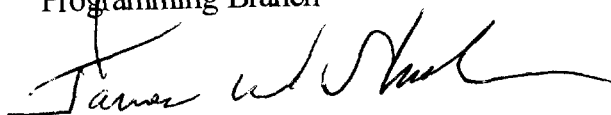
8. Accordingly, the Licensees have failed to articulate any reason why oral argument would be justified under the criterion specified in Section 1.277(c) of the Commission's Rules. Therefore, their Request for Oral Argument should be denied. Of course, should the Commission

nonetheless find that an oral argument would be useful, the Bureau will participate in order to assist the Commission in its resolution of the issues raised in this proceeding.

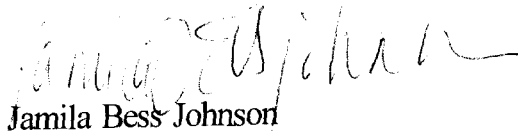
Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



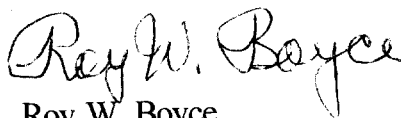
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December 5, 1997

CERTIFICATE OF SERVICE

Talya Lewis, a secretary in the Complaints and Political Programming Branch, Mass Media Bureau, hereby certifies that she has on this 5th day of December, 1997, sent by regular first class U.S. mail, copies of the foregoing "Mass Media Bureau's Response to Request for Oral Argument" to:

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